

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0616-06
Bill No.: SCS for HCS for HB 562
Subject: Children and Minors; Health, Public; Board and Commissions;
Type: Original
Date: May 6, 2011

Bill Summary: This legislation modifies the Children's Services Commission as well as provisions regarding child care providers and enacts a task force on prematurity and infant mortality.

This legislation will sunset on January 31, 2015.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
General Revenue	(Unknown but Greater than \$100,000)	(Unknown but Greater than \$100,000)	(Unknown but Greater than \$100,000)
Total Estimated Net Effect on General Revenue Fund	(Unknown but Greater than \$100,000)	(Unknown but Greater than \$100,000)	(Unknown but Greater than \$100,000)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses. This fiscal note contains 11 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
General Revenue	Unknown FTE	Unknown FTE	Unknown FTE
Total Estimated Net Effect on FTE	Unknown FTE	Unknown FTE	Unknown FTE

☒ Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).

☐ Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Sections 210.101 & 210.102:

Officials from the **Office of the State Courts Administrator, Department of Higher Education, Department of Corrections, Missouri Senate, Department of Mental Health, Department of Health and Senior Services, Department of Labor and Industrial Relations, Missouri Governor** and the **Department of Elementary and Secondary Education** each assume the proposal would have no fiscal impact on their respective agencies.

In response to a previous version of this proposal, officials from the **Department of Social Services** assume the proposal would have no fiscal impact on their agency.

Section 210.105:

Officials from the **Department of Insurance, Financial Institutions and Professional Registration, Missouri Senate, Missouri Governor** and the **Department of Health and Senior Services** each assume the proposal would have no fiscal impact on their respective agencies.

In response to a previous version of this proposal, officials from the **Department of Social Services** assume there is no fiscal impact to the Department. The Director or the Director's designee is a member of the task force, but cannot receive compensation. Reimbursement for expenses and staff support is the responsibility of the Children's Services Commission.

Sections 210.209, 210.211, 210.245:

In response to a similar proposal from this year (HB 603), officials from the **Department of Mental Health, Office of Prosecution Services, Office of the State Public Defender, Missouri State Treasurer, Missouri State Highway Patrol, Office of Administration-Budget and Planning** and the **Office of the State Courts Administrator** each assume the proposal would have no fiscal impact on their respective agencies.

Officials from the **Office of the Attorney General** assume any potential costs arising from this proposal can be absorbed with existing resources.

ASSUMPTION (continued)

Officials from the **Department of Corrections (DOC)** state the DOC, cannot predict the number of new commitments which may result from the creation of the offense(s) outlined in this proposal. An increase in commitments depends on the utilization by prosecutors and the actual sentences imposed by the court.

If additional persons are sentenced to the custody of the DOC due to the provisions of this legislation, the DOC will incur a corresponding increase in operational cost through supervision provided by the Board of Probation and Parole (FY10 average of \$3.92 per offender, per day or an annual cost of \$1,431 per offender).

In summary, supervision by the DOC through probation would result in some additional costs, but it is assumed the impact would be \$0 or a minimal amount that could be absorbed within existing resources.

In response to a similar proposal from this year (HB 603), officials from the **Department of Social Services** assume the proposal may impact the number of children that will have access to registered child care, the Children's Division does not anticipate a fiscal impact.

Officials from the **Department of Elementary and Secondary Education (DESE)** assume there is no anticipated state cost to the foundation formula associated with this proposal. To the extent fine revenues exceed 2004-2005 collections, any increase in this money distributed to schools districts increases the deduction in the foundation formula the following year. Therefore, the affected districts will see an equal decrease in the amount of funding received through the formula the following year; unless the affected districts are hold-harmless, in which case the districts will not see a decrease in the amount of funding received through the formula (any increase in fine money distributed to the hold-harmless districts will simply be additional money). An increase in the deduction (all other factors remaining constant) reduces the cost to the state of funding the formula.

Oversight assumes any increase or decrease in fine or penalty revenues generated cannot be determined. Therefore, the fiscal note does not reflect any fine or penalty revenues for the local school districts.

ASSUMPTION (continued)

Officials from the **Department of Health and Senior Services (DHSS)** state the following:

Section 210.211.1(1):

According to the Department of Social Services there was an average of 2,896 registered unlicensed child care providers during FY 2010. DHSS is unable to estimate the number of unlicensed child care providers that are not registered and therefore assumes that an unknown number of child care providers will be required to be licensed as a result of the proposed legislation.

The Division of Regulation and Licensure (DRL) within the DHSS is responsible for the inspection, licensure, and regulation of child care programs in Missouri. Inspectors conduct inspections of licensed child care programs semi-annually and complaint investigations as needed.

In addition to the inspections conducted by DRL, the Division of Community and Public Health conducts safety and sanitation inspections for licensed child care providers at the time of licensure and annually thereafter.

Section 210.245.1

The proposed legislation in this section imposes a fine of two hundred dollars per day, not to exceed a total of ten thousand dollars for any person that violates the child care licensure provisions set forth in sections 210.201 to 210.245 for a second or subsequent time. The Department assumes an unknown increase in General Revenue as a result of this imposed fine.

Summary

The proposed legislation would result in the need for additional inspectors. Due to the unknown number of child care providers that will be required to be licensed, DHSS estimates an impact of (Unknown > \$100,000). The Department further estimates that as a result of the imposition of increased fines, the proposed legislation will cause an unknown increase in General Revenue.

Section 210.265:

In response to a similar proposal from this year (HB 156), officials from the **Parkway School District, Fair Grove School District, Department of Mental Health, St. Louis Public School District, Office of Prosecution Services** and the **Office of the State Courts Administrator** each assume the proposal would have no fiscal impact on their respective agencies.

ASSUMPTION (continued)

In response to a similar proposal from this year (HB 156), officials from the **Office of the State Public Defender (SPD)** state for purposes of the proposal, the SPD cannot assume existing staff will provide competent, effective representation for any indigent clients faced with the new crime of continuing to provide child care services following notification by the Department to cease such child care services would be a new Class B misdemeanor. Any second or subsequent violation of this section would be a new Class A misdemeanor.

While the number of new cases may be too few or uncertain to request additional funding for this specific proposal, the SPD will continue to request sufficient appropriations to provide competent and effective representation in all cases.

Oversight assumes the SPD could absorb the additional caseload that may result from this proposal within existing resources. Oversight assumes any significant increase in the workload of the SPD would be reflected in future budget request.

Officials from the **Department of Corrections (DOC)** state the DOC cannot predict the number of new commitments which may result from the creation of the offense(s) outlined in this proposal. An increase in commitments depends on the utilization by prosecutors and the actual sentences imposed by the court.

If additional persons are sentenced to the custody of the DOC due to the provisions of this legislation, the DOC will incur a corresponding increase in operational cost through supervision provided by the Board of Probation and Parole (FY10 average of \$3.92 per offender, per day or an annual cost of \$1,431 per offender).

In summary, supervision by the DOC through probation would result in some additional costs, but it is assumed the impact would be \$0 or a minimal amount that could be absorbed within existing resources.

Officials from the **Department of Elementary and Secondary Education (DESE)** assume there is no anticipated state cost to the foundation formula associated with this proposal. To the extent fine revenues exceed 2004-2005 collections, any increase in this money distributed to school districts increases the deduction in the foundation formula the following year. Therefore, the affected districts will see an equal decrease in the amount of funding received through the formula the following year; unless the affected districts are hold-harmless, in which case the districts will not see a decrease in the amount of funding received through the formula (any increase in fine money distributed to the

ASSUMPTION (continued)

hold-harmless districts will simply be additional money). An increase in the deduction (all other factors remaining constant) reduces the cost to the state of funding the formula.

Oversight assumes any increase or decrease in fine or penalty revenues generated cannot be determined. Therefore, the fiscal note does not reflect any fine or penalty revenues for the local school districts.

In response to a similar proposal from this year (HB 156), officials from the **Department of Social Services** states while this legislation will impact license exempt child care providers, the Children's Division does not anticipate a fiscal impact. However, it should be noted that 210.025 RSMo affords provisions to prohibit license exempt family home child care providers from participating in the Child Care Subsidy program if they (the provider), or any member of their household age 17 or older, have a criminal background with specified convictions, or a child abuse/neglect finding of substantiated, probable cause, or preponderance of the evidence.

Officials from the **Department of Health and Senior Services** state Chapter 210, RSMo, provides for numerous exemptions from licensure, including persons caring for four or fewer children who are not related to the provider within the third degree; school systems; and businesses that operate a child care program as a convenience to their customers or employees for more than four hours per day. This chapter also provides that religious programs operating a child care program are exempt from licensure; however they are required to be inspected for health and safety, fire safety, and sanitation annually. Section for Child Care Regulations (SCCR) is not able to estimate the number of providers in these categories in order to estimate the number of potential investigations that may be required. DHSS estimates the cost of conducting an investigation for a childcare facility to be approximately \$425 per inspection. However, since these individuals are exempt from licensure, SCCR does not currently regulate or inspect these individuals. The impact of the legislation is therefore anticipated to result in an unknown cost to DHSS.

FISCAL IMPACT - State Government

FY 2012
(10 Mo.)

FY 2013

FY 2014

GENERAL REVENUE FUND

Income - Department of Health and Senior Services* (Section 210.211 & 210.245)

Licensure Fees and Penalties	Unknown	Unknown	Unknown
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Costs - Department of Health and Senior Services* (Section 210.211 & 210.245)

Program Costs	(Unknown but Greater than \$100,000)	(Unknown but Greater than \$100,000)	(Unknown but Greater than \$100,000)
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Total Costs - DHSS	(Unknown but Greater than \$100,000)	(Unknown but Greater than \$100,000)	(Unknown but Greater than \$100,000)
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FTE Change - DHSS	Unknown	Unknown	Unknown
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Costs - Department of Health and Senior Services-(Section 210.265)

Personal Service	(Unknown)	(Unknown)	(Unknown)
Fringe Benefits	(Unknown)	(Unknown)	(Unknown)
Equipment and Expense	(Unknown)	(Unknown)	(Unknown)
Program Costs	(Unknown)	(Unknown)	(Unknown)

Total Costs - DHSS	(Unknown)	(Unknown)	(Unknown)
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FTE Change - DHSS	Unknown FTE	Unknown FTE	Unknown FTE
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**ESTIMATED NET EFFECT ON
GENERAL REVENUE FUND**

(Unknown but Greater than \$100,000)	(Unknown but Greater than \$100,000)	(Unknown but Greater than \$100,000)
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Estimated Net FTE Change for General Revenue Fund

Unknown FTE	Unknown FTE	Unknown FTE
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*Oversight assumes costs will exceed savings.

FISCAL IMPACT - Local Government

FY 2012
(10 Mo.)

FY 2013

FY 2014

\$0

\$0

\$0

FISCAL IMPACT - Small Business

Sections 210.209, 210.211, 210.245:

In order to maintain or operate a child care facility, child care providers who currently care for related children (excluding their own children living in the home and attending full-day school) will be required to have a license granted by the Department of Health and Senior Services if they care for more than four children.

Section 210.265:

If pending criminal charges against an unlicensed child care provider would similarly result in the sanction of the license of a licensed child care provider based on such pending criminal charges, the unlicensed provider would be prohibited from continuing to provide child care services in Missouri until the pending criminal charges are resolved in favor of the unlicensed child care provider.

FISCAL DESCRIPTION

Sections 210.209, 210.211, 210.245:

This legislation establishes Nathan's Law which changes the laws regarding child care facilities. In its main provisions, the legislation:

- (1) Specifies that a child related by blood, marriage, or adoption will be counted in the total number of children being cared for except that a child living in the home who attends a full day of school will not be included in the total. Currently, these children are not considered in the total number;
- (2) Requires any child care facility which is exempt from licensure to disclose its exempt status to the parents or guardians of children in its care;
- (3) Assesses a fine of \$200 per day, not to exceed \$10,000, to any person violating the provisions regarding licensure of child care facilities for a second or subsequent time; and
- (4) Authorizes the DHSS to immediately close any illegally operating unlicensed child care facility (ccf). A local prosecutor may file suit for a permanent order preventing the operation of the facility which will remain in effect until the court determines that the ccf is in compliance.

FISCAL DESCRIPTION (continued)

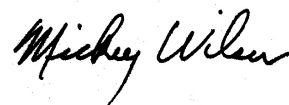
Section 210.265:

This legislation establishes Sam Pratt's Law which authorizes the Department of Health and Senior Services to investigate and prohibit an unlicensed child care provider from continuing to provide child care services if there are criminal charges pending against him or her that would similarly result in licensure sanctions for a licensed child care provider. Any unlicensed child care provider who continues to provide services after notification by the Department to cease will be guilty of a class B misdemeanor for the first violation and a class A misdemeanor for any subsequent violation. The Department must report any known violation to the appropriate prosecuting attorney's office or law enforcement agency.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of the State Courts Administrator
Department of Elementary and Secondary Education
Department of Insurance, Financial Institutions and Professional Registration
Department of Higher Education
Department of Mental Health
Department of Corrections
Department of Health and Senior Services
Department of Social Services
Office of the Attorney General
Department of Labor and Industrial Relations
Office of Administration-Budget and Planning
Office of Prosecution Services
Office of the State Public Defender
Missouri State Treasurer
Missouri State Highway Patrol
Office of the State Courts Administrator
Missouri Governor
Missouri Senate



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